

Special Report

OF THE

STATE AUDITOR

Relating to the Operations of the COAL MINERS
ACCIDENT AND TOTAL DISABILITY INSUR-
ANCE LAW. (Act Approved March 4th, 1909.)

Submitting Facts and Figures Pertaining Thereto, and Showing Experience
Gained, or Established, for the Period Covered During which said Act has been
in Force.

H. R. CUNNINGHAM, State Auditor and Commissioner of
Insurance, Ex-Officio.



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Insurance Department, State Auditor's Office.

Helena, Montana, January 31, 1911.

Hon. E. L. Norris, Governor.

Dear Sir: In compliance with the provisions of Section 10, Senate Bill No. 56, Act of March 4th, 1909, entitled "An Act to Create a State Accident Insurance, and Total Pemanent Disability Fund, for coal miners and employes at coal washers in the State of Montana, and providing for the maintenance and management of the same; extending and defining the duties of the State Auditor; and fixing penalties for the violation of the provisions of this Act," which section requires that "the Auditor of State shall report in January of each year to the Governor the experience and business of this function of his department," I have the honor to submit herewith figures and data relating to the operations of said Act, covering the period from October 1st, 1910 to January 31st, 1911.

In conjunction with the State Coal Mine Inspector, Hon. J. B. McDermott, this Department has secured the names and addresses, presumably, of all coal mine operators in this State, and with the same assistance have been able to classify such list, said classification showing the mines operated and those not in operation. The State Coal Mine Inspector has also furnished us with a list of the fatal accidents reported to him as occurring at the different coal mine properties during the preceding year.

At this point it should be stated, as you are aware, there have been a number of operators, or companies, who have refused to recognize the provisions of this Act, or to comply with the requirements thereof, and as a result, after due and proper notice had been served upon all operators, this Department directed the Attorney General

to bring suit, as provided by law against the Northwestern Improvement Company of Red Lodge, Montana, otherwise known as the Rocky Fork Coal Company, *as a test case*, to establish the validity of the statute and to settle the question as to its constitutionality, which seemed to be the basis upon which this, as well as other companies, refused to comply with its provisions.

This case is now pending in the District Court of Lewis and Clark County, upon an agreed statement of facts between the Northwestern Improvement Company and the Commissioner of Insurance, and is at this time being heard by said court. In the meantime, this Department, after due notice to the State Treasurer, acceptance of which is a matter of record, concluded that the receipts from collections of payments made by companies complying with the provisions of the law in question, should be maintained and held in a separate fund awaiting a final determination, for the reason that many of the companies, in making such payments, did so under protest and served notice upon the Auditor and Commissioner of Insurance that they would hold him responsible in the premises, which responsibility the Auditor refused to accept, if compelled to deposit with the State Treasurer the funds collected, in view of the possibility of serious difficulty arising in being able to withdraw those funds at a later date in the event of a decision holding the statute invalid.

I desire to call your attention particularly to the fact that while this bill received the approval of the Governor and became a law March 4th, 1909, the same did not go into effect, under its provisions, until October 1st, 1910, therefore operations thereunder have continued for a period of only four months, including October, November and December, 1910 and January, 1911.

The receipts of the Department, however, are based upon the reports submitted and payments made for the months of October, November and December, and amount to \$7,420.95. The payments on account of operations,

based upon coal mined, and due from a percentage of wages paid, during the month of January, not being due until after the respective pay days of the different companies in February, are not included in this report. This fund is carried to the credit of the State Auditor in a separate account and is properly secured by a satisfactory bond.

Section 13 of this Act reads as follows: "This Act to be in full force and effect from and after the first day of October, 1910, *benefits to commence four months thereafter.*" It will, therefore, be noticed that the benefits referred to are due and payable from and after February 1st, 1911. Claims which have been filed, however, and of which there follows an itemized list, will be held in abeyance subject to the decision of the court, unless this Department is otherwise directed by proper authority to adjudicate any of said claims.

I beg to report further that due, ample and continued notice to all parties in interest, including mine operators and representatives of coal mine employees, has been given, from time to time, and all necessary information furnished, accompanied by proper blank forms and copies of the law. There can be no question but what this law has been given full publicity and is thoroughly understood by all parties to whom the same applies, or who are affected by its provisions.

It may be stated, and should be understood, that mines or properties *which are worked solely by their owners with no paid employees*, are not considered as coming under the provisions of this Act, and a compliance in full, or in part, with the provisions thereof have not been required.

At this juncture there is submitted a list of the companies which have complied fully or partially with the provisions of this Act, and the amounts paid by them; a list of companies, which, from the best information we can secure, are operating, but have failed to comply with said

provisions, either in part or in full; and a list of companies, or properties, in existence in this State, which our best information goes to show are not in operation, and which are principally mines of more or less prospective character, not operating for commercial purposes and having no paid employees.

**LIST OF OPERATING COMPANIES WHICH HAVE COMPLIED WITH
THE PROVISIONS OF THIS ACT, EITHER IN PART OR IN FULL,
AND PAYMENTS MADE BY SAID COMPANIES.**

	Oct.	Nov.	Dec.	Total
Alba Coal Co. Fromberg	\$.....	\$.....	\$ 19.65	\$ 19.65
Alcott, J. R. Havre, Oct. 1 to Jan. 21, '11				16.11
Anaconda Copper Mining Co... Belt	262.80	351.84	317.87	932.51
Anaconda Copper Mining Co... Washoe	203.33	251.60	397.91	952.84
Brown, Hackett & Wilson... Sand Coulee...	6.73	10.34	13.10	30.17
Brown & Son	15.00			15.00
Bear Creek Coal Co. Bear Creek ...	195.50	217.65	141.73	554.88
Bituminous Coal Co. Coalville	99.70	67.17	41.57	208.44
Bridger Coal Imp. Co..... Bridger	84.90	74.87	70.50	230.27
Carbon Coal Mine	30.57			30.57
Calone, Frank	17.10	23.20	27.55	67.85
Davis Coal Co. Roundup	Oct.	Nov.	Dec.	788.45
Gold Reef Mine	3.65	3.25	3.25	10.15
Gerber Coal Co. Sand Coulee...	74.61	91.66	48.48	214.75
International Coal Co. Bear Creek ...	102.07	167.77		269.84
Keene Coal Co. Roundup	Oct.	Nov.	Dec.	28.22
Kircher Coal Co. Miles City	8.04	11.98	20.31	40.33
Lewistown Coal, Gas & Light Co. Lewistown ...	30.83	46.35	30.48	107.66
Lochran Coal Co. Sand Coulee...	7.34	7.70		15.04
Lakeside Coal Co. Sand Coulee...	10.28	6.65	7.55	24.48
Mack Mine	3.42	4.97	4.61	13.00
Milk River Coal Co. Chinook	10.07	13.64	13.97	37.68
Maxey Bros. Chinney Rock.	118.34	70.27		188.61
Mountain House Coal Co. Trail Creek...	96.20	82.60	74.90	253.70
Millard & Crane Coal Co..... Belt	3.06	4.01		7.07
Montana Coal & Iron Co..... Bear Creek ...	122.17	216.72	189.37	528.26
Nicholson Bros. Stockett	Oct.	Nov.		3.40
McCarthy, J. C. Co..... Fromberg		31.23		31.23
O'Neill & Williams	Oct.	Nov.	Dec.	8.30
Roundup Coal Mining Co. Roundup	560.83			560.83
Republic Coal Co. Roundup	554.38	430.67		985.05
Schultz Mine		Nov.	Dec.	4.36
Stainsby-Latham Coal Co. Sand Coulee...	45.93	33.41	41.48	120.80
Smokeless & Sootless Coal Co. Bear Creek ...	48.64	72.00		120.64
Total amount received up to date.....				\$7,420.95

(It will be noticed that the Roundup Coal Company of Roundup, has paid for the month of October only; the Republic Coal Company of Roundup, has paid for the months of October and November; also, that certain remittances have been made, by other companies, at one time, including two and three months reports.)

LIST OF COMPANIES WHICH HAVE NOT COMPLIED, EITHER
IN PART OR IN FULL, WITH ANY OF THE PROVISIONS OF
THIS ACT.

Astrope Mine	Culbertson.
Ballock & Onstad	Coalride.
Cottonwood Coal Co.	Stockett.
Dahn, Louis Coal Co.	Sand Coulee.
Havre Coal Mining Co.	Havre.
Klock, Earl	Havre.
Macton Coal Co.	Big Sandy.
Nelson-Jenks Coal Co.	Sand Coulee.
Northwestern Imp. Co.	Red Lodge.
Orr Bros.	Belt.
Oregon & Montana Coal Co.	Sand Coulee.
Readers Mine	Chinook.
Seaman Mine	Windham.
Seright, George	Moore.

**List of Companies, or Properties, not in operation, from best information
and which have failed to respond to repeated notices.**

Armington Mine	Armington.
Burns, Thos. T.	Chinook.
Black Diamond Mine	Lewistown.
Co-Operative Coal Mine	Havre.
Coal Creek Co.	Calabar.
Custer County Coal Co.	Fallon.
Evans Mine	Storrs.
Hatch & Weaner	Miles City.
Harrison Mine	Storrs.
Hughes Mine	Stanford.
Joliet Coal & Fuel Co.	Joliet.
Kerr Mine	Chinook.
Marcey, C. O. Mine	Forsyth.
Montana Coal & Coke Co.	Electric.
McCurley Mine	Miles City.
ONeill Mine	Havre.
Richardson Bros. Mine	Culbertson.
Rand Coal Mine	Moore.
Richardson Coal Co.	Armington.
Seargent Mine	Chinook.
Shorty Young's Mine	Medicine Lake.
Stanton Mine	Havre.
Sharp Bros.	Lewistown.
Yellowstone Coal Co.	Miles City.

The following claims for full indemnity on account of death, under the provisions of this Act, have been filed with this Department, up to this date.

Aleck Haapajoke	Northwestern Imp. Co., Red Lodge.
Henry Lehto	Northwestern Imp. Co., Red Lodge.
David Jones	Bridger Coal & Imp. Co.

You will notice that the two claims first listed arise from fatal accidents occurring at a property which failed to comply with the law, and from whom no payments have been made to the fund.

In addition to the above, the following claims for temporary disability, or indemnity covering other than permanent disability, have been filed, which, however, are not, in our opinion, covered by the provisions of the Act, but have been received and made a matter of record in this office, that the rights of the parties concerned might be protected.

Elijah V. Jukanovich	Bear Creek Coal Co.
Joe Erzen	Mont. Coal & Iron Co.
Geo. Deagich	Mont. Coal & Iron Co.
Joe Savich	Mont. Coal & Iron Co.
Red Deagich	Mont. Coal & Iron Co.
Steve Visich	Mont. Coal & Iron Co.
Barney Hart	Mont. Coal & Iron Co.
John Lesnick	Mont. Coal & Iron Co.
John Magnuson	Mont. Coal & Iron Co.
Gregory Bloomstrand	Republic Coal Co.
Jesse Finley	Republic Coal Co.
Premo Bernardi	Republic Coal Co.
John Costello	Republic Coal Co.
Clarence S. Fox	Republic Coal Co.
Dan Davis	Republic Coal Co.

In none of these cases have we been furnished with proof of permanent disability, nor has this Department caused any special investigation to be made.

The State Coal Mine Inspector reports a total tonnage for the year 1909 produced by coal mines operating in Montana, of 2,970,246 tons.

From October 1, 1910 to January 1, 1911, covering three months, there has been reported, and the assessment paid

thereon, approximate tonnage to the amount of 302,498 tons, and wages to the amount of \$439,505.68. Upon this basis, as the last stated tonnage is in ratio to the total amount reported for the year 1909, considered with a relative estimate for assessments charged against wages paid, the receipts of this fund for the current year should reach approximately \$72,445.02. During the year 1909, as reported by the same department, there have been ten fatal accidents and fifty-four non-fatal accidents in coal mines in this State. If the above claims for fatalities were all allowed under the provisions of this Act \$30,000.00 would have been used for that purpose, leaving a balance of \$42,445.02 for the adjustment of non-fatal accidents. As the bill contemplates the payment of certain indemnity only in total disability cases the experience would suggest that the rate charged, both the company and the employee, is amply adequate to meet the loss claims likely to arise as included and covered by this Act. We have, however, been unable to ascertain the number of cases of proven permanent disability included in the fifty-four non-fatal accidents reported; but it is reasonable and safe to assume that the cases of that character were rare.

Your attention is directed to the following companies, which comprise some of the largest operators in the State:

Cottonwood Coal Co.	Stockett.
Havre Coal Mining Co.	Havre.
Nelson-Jenks Coal Co.	Sand Coulee.
Northwestern Imp. Co.	Red Lodge.
Oregon & Montana Coal Co.	Sand Coulee.

These concerns, as well as many other smaller operators have not attempted to comply with the provisions of this Act, no doubt, delaying their action in that respect, awaiting the final determination of the test case herein referred to. It will, therefore, be seen that it is extremely difficult for us to give any comprehensive estimate upon which to base an experience at this time. If all companies en-

gaged in the mining of coal, where employees are on the pay roll, were to report under the terms of this statute, and comply with the provisions thereof, there would be little difficulty in framing a report for submission to you, which would be positive in its statements and intelligent in its conclusions.

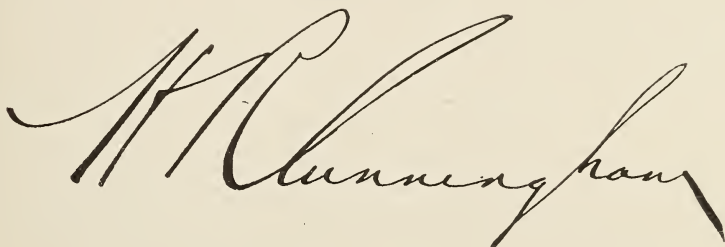
There are some slight defects and irregularities in this law, and in my opinion, the same could be improved in several instances, but after a conference with a representative of the coal miners, and with certain operators friendly to the Act, the conclusion has been reached that it is perhaps wise at this time to suspend action looking to the amendment of the statute, and await the determination of the test case now in the courts. I do not hesitate to say that the law, in my mind, is not in such form, but what the important features covered therein and the main requirements of the bill may be enforced without difficulty. I believe that the authority granted in the Act to the State Auditor, and the duties imposed upon him thereunder, establishes too much power and too great responsibility in the handling and settlement of claims. If, however, the statute is declared valid and technical questions relating to its provisions, which may suggest irregularities or inconsistency should arise, then amendments necessary to put the law in better working order can be made at the next session of the legislature. I take pleasure in giving this measure my unqualified and hearty support. I believe it is a step in the right direction, and there is no question in my mind, that ultimately it will work out to a satisfactory end. In fact, I am inclined to believe that in due time, if proper report is made and taxes or assessments paid by all companies operating in the state, the receipts will justify, perhaps, added benefits, more or less, for non-fatal accidents.

On the 6th of January, 1911,^{*} that the record might be complete, and that the question of proper notice might not be raised by any company operating in this State, and

coming under the provisions of this Act, an additional notice of the requirements thereof was mailed to all companies which had not responded to previous notices, calling attention to their failure in that respect, and to the penalty imposed by the law.

There is attached hereto a copy of the Act for reference, in convenient form.

Very respectfully,

A large, elegant handwritten signature in cursive script, reading "H. C. Cunningham". The signature is written in dark ink and features a prominent, sweeping flourish at the end.

State Auditor and Commissioner of Insurance, Ex-Officio.

